

James Burchett  
August 29, 2024

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Case No. 2:23-cv-4102

- - -

DEREK J. MYERS, ET AL.,

plaintiffs,

V.

PIKE COUNTY, ET AL.,

defendants.

DEPOSITION OF JAMES BURCHETT

The deposition of James Burchett was taken  
on Thursday, August 29th, 2024, at 11:52 a.m., at the  
Pike County Government Center, 230 Waverly Plaza,  
Waverly, Ohio.

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<p style="text-align: right;">Page 2</p> <p>1 ON BEHALF OF THE PLAINTIFFS:</p> <p>2 Marc D. Mezibov, Esquire (via Zoom)</p> <p>3 Mezibov Butler</p> <p>4 615 Elsinore Place, Suite 105</p> <p>5 Cincinnati, Ohio 45202</p> <p>6 mmezibov@mezibov.com</p> <p>7 Emmett E. Robinson, Esquire</p> <p>8 Robinson Law Firm LLC</p> <p>9 6600 Lorain Avenue, Suite 731</p> <p>10 Cleveland, Ohio 44102</p> <p>11 erobinson@robinsonlegal.org</p> <p>12</p> <p>13 ON BEHALF OF THE DEFENDANTS:</p> <p>14</p> <p>15 Cassaundra L. Sark, Esquire</p> <p>16 Lambert Law Office, LLC</p> <p>17 215 South 4th Street</p> <p>18 Ironton, Ohio 45638</p> <p>19 csark@lambert-law.org</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22</p> <p>23 Derek Myers (via Zoom)</p> <p>24</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 EXAMINATION PAGE</p> <p>3 Mr. Mezibov 4</p> <p>4</p> <p>5</p> <p>6</p> <p>7 EXHIBITS PAGE</p> <p>8 None</p> <p>9</p> <p>10</p> <p>11</p> <p>12 Stenographer's Certificate 18</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 - - -</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 4</p> <p>1 JAMES BURCHETT,</p> <p>2 being by me first duly sworn, as hereinafter</p> <p>3 certified, deposes and says as follows:</p> <p>4 EXAMINATION</p> <p>5 By Mr. Mezibov:</p> <p>6 Q. Good morning. You are James -- is it</p> <p>7 Burchett or Burchett? How do I pronounce it?</p> <p>8 A. It is Burchett. It's Burchett.</p> <p>9 Q. Burchett?</p> <p>10 A. Yeah. Burchett.</p> <p>11 MR. ROBINSON: Burchett.</p> <p>12 Q. And how do I address you? Do I call you</p> <p>13 deputy chief? Do I call you chief?</p> <p>14 A. You can just address me as Jim if you</p> <p>15 want to.</p> <p>16 Q. No. No. You're entitled to better than</p> <p>17 that.</p> <p>18 A. Well, my title is captain.</p> <p>19 Q. Captain?</p> <p>20 A. Yes, sir.</p> <p>21 Q. All right. Captain. Captain, my name is</p> <p>22 Marc Mezibov. I'm the one asking you the questions.</p> <p>23 I represent Mr. Myers along with Mr. Robinson who's</p> <p>24 across the table from you. But I'll be the one</p>	<p style="text-align: right;">Page 5</p> <p>1 asking the questions. And I'll tell you I don't</p> <p>2 think we're going to be here too terribly long.</p> <p>3 Because I think we got a lot of stuff done with the</p> <p>4 sheriff before you identifying papers and such. But</p> <p>5 I do have questions of you.</p> <p>6 So let me ask you this: Have you ever</p> <p>7 been deposed before?</p> <p>8 A. Yes. I have.</p> <p>9 Q. All right. My guess is this will sound</p> <p>10 familiar to you. And we'll follow probably the same</p> <p>11 format that was followed in your previous experience.</p> <p>12 I'm going to be asking you questions. And I don't</p> <p>13 want you to guess at what I'm asking you.</p> <p>14 Okay. So if my questions are problematic</p> <p>15 for any reason, you don't understand what I'm asking</p> <p>16 you, I use a word that's unfamiliar or improperly</p> <p>17 used or I garble my words or make the thing for</p> <p>18 complex than it need be, tell me that. Okay. I'm</p> <p>19 not trying to confuse you or trick you. I do want to</p> <p>20 get your answers as accurately as I can. Okay?</p> <p>21 A. Okay.</p> <p>22 Q. All right. Let me finish my question</p> <p>23 before you begin your answer. I'll want to hear your</p> <p>24 answer before I begin my next question. Only reason</p>

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<p style="text-align: right;">Page 6</p> <p>1 we do that is that we don't make it confusing for Kay</p> <p>2 as the court reporter. She wants to get everything</p> <p>3 down as accurately and as completely as possible. So</p> <p>4 if we don't talk over one another, that will go a</p> <p>5 long way to accomplish that fact -- accomplish that</p> <p>6 goal. Okay?</p> <p>7 A. I'm ready.</p> <p>8 Q. All right. Answer, please, all my</p> <p>9 questions audibly not simply by a nod of the head so</p> <p>10 that Kay knows what you're saying. All right?</p> <p>11 A. I'm waiting.</p> <p>12 Q. What's that?</p> <p>13 A. I said I'm waiting.</p> <p>14 Q. You're waiting?</p> <p>15 A. Yes, sir. I'm ready.</p> <p>16 Q. All right. Here's my question. Are you</p> <p>17 employed?</p> <p>18 A. Yes, sir. I am.</p> <p>19 Q. By whom?</p> <p>20 A. Pike County Sheriff's Office.</p> <p>21 Q. And how long have you been employed by</p> <p>22 the Pike County Sheriff's Department?</p> <p>23 A. Let's see. September the 2nd of this</p> <p>24 year, I'll be going into my 18th year, I do believe.</p>	<p style="text-align: right;">Page 7</p> <p>1 Q. And how long have you been chief deputy?</p> <p>2 A. I'm not a chief deputy. I'm a captain.</p> <p>3 Q. Oh, you're captain. I'm sorry.</p> <p>4 A. Yes, sir.</p> <p>5 Q. How long have you been a captain?</p> <p>6 A. I'm going to say off the top of my head</p> <p>7 probably about five, six years.</p> <p>8 Q. Okay. And to whom do you report as</p> <p>9 captain?</p> <p>10 A. Well, I report to my sheriff, and I also</p> <p>11 report to the courts who I serve.</p> <p>12 Q. And I say "report." I mean, who's your</p> <p>13 immediate supervisor?</p> <p>14 A. My immediate supervisor right now is our</p> <p>15 chief deputy, Christopher Jones.</p> <p>16 Q. At some time, did you report to a</p> <p>17 gentleman named Dixon?</p> <p>18 A. Yes, sir, I did.</p> <p>19 Q. When was that?</p> <p>20 A. That was all the way up until about a</p> <p>21 year ago. Until his departure.</p> <p>22 Q. Okay. And in what way would you report</p> <p>23 to Mr. Dixon?</p> <p>24 A. Mr. Dixon always kept track of all the</p>
<p style="text-align: right;">Page 8</p> <p>1 cases that we were currently working.</p> <p>2 Q. And did you ever have direct contact with</p> <p>3 the sheriff himself?</p> <p>4 A. Of course. Yes.</p> <p>5 Q. How and under what circumstances?</p> <p>6 A. Well, we usually would meet couple times</p> <p>7 a week to discuss cases that we were working on. Or</p> <p>8 just to discuss general things that were happening</p> <p>9 around the office -- administrative things.</p> <p>10 Q. We have -- I'm sorry. I didn't mean to</p> <p>11 speak over you.</p> <p>12 We have marked a document earlier as</p> <p>13 Exhibit 7, which I'm going to ask Emmett to put in</p> <p>14 front of you. Have you seen Exhibit 7 previously?</p> <p>15 A. Yes. Yes. I have.</p> <p>16 Q. What is this?</p> <p>17 A. Well, this is actually -- it lays out my</p> <p>18 job description.</p> <p>19 Q. Okay. And it says you supervise all</p> <p>20 functions of the sheriff's office; is that correct?</p> <p>21 A. Not exactly every function. But pretty</p> <p>22 much so, yes.</p> <p>23 Q. Okay. What functions are not supervised</p> <p>24 by you?</p>	<p style="text-align: right;">Page 9</p> <p>1 A. Well, this has changed since this lawsuit</p> <p>2 has been filed. My role at the sheriff's office is</p> <p>3 constantly evolving. Can you be more specific?</p> <p>4 Q. Sure. I'm talking about -- do you know</p> <p>5 our client, Derek Myers?</p> <p>6 A. Yes. Charlie Reeder's cousin, I do</p> <p>7 believe. Yes. I know him.</p> <p>8 Q. How do you know Mr. Myers?</p> <p>9 A. Well, back when Charlie Reeder was</p> <p>10 sheriff, he wanted me to partner up with Mr. Myers</p> <p>11 and work closely with him.</p> <p>12 Q. Okay. So you knew Mr. Myers personally?</p> <p>13 A. No. Not really. I didn't approve of</p> <p>14 that type of relationship.</p> <p>15 Q. Okay. Did you ever, in your professional</p> <p>16 capacity, have any experiences with Mr. Myers?</p> <p>17 A. Not really.</p> <p>18 Q. Did you ever serve any process on him?</p> <p>19 A. Yes. I did during the Rhoden Gilley</p> <p>20 homicide trial.</p> <p>21 Q. All right. That's what I'm interested</p> <p>22 in.</p> <p>23 A. Okay.</p> <p>24 Q. Tell me what process you served on</p>

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<p>1 Mr. Myers?</p> <p>2 A. Okay. Well, I was asked that day,</p> <p>3 because we were short-handed, if I would work</p> <p>4 security at the front door of the common pleas</p> <p>5 courthouse.</p> <p>6 Q. Who asked you to do that?</p> <p>7 A. To be honest, I don't know if it was the</p> <p>8 sheriff or if it was the chief deputy. I don't</p> <p>9 remember. It's been a while back.</p> <p>10 Q. Go on. Tell me what happened.</p> <p>11 A. I said, "Sure. No problem." Because,</p> <p>12 like I said, my job description is ever evolving.</p> <p>13 And due to being short-staffed and stuff, we all have</p> <p>14 to chip in. So I did. And I worked security at that</p> <p>15 day at the front door.</p> <p>16 And Lieutenant Carver along with the</p> <p>17 prosecutor's investigator, Alan Wheeler, came to me</p> <p>18 because the prosecutor along with Lieutenant Carver,</p> <p>19 who was over court security at that time, gave me</p> <p>20 instructions, per the prosecutor, that when Mr. Myers</p> <p>21 was to arrive that I was to seize his cell phone and</p> <p>22 also give him a copy of an inventory of a search</p> <p>23 warrant that they had executed.</p> <p>24 Q. Okay. And that direction came to you</p>	<p>1 from whom?</p> <p>2 A. That came from the prosecutor</p> <p>3 investigator and from Lieutenant Carver. They were</p> <p>4 operating under the direction of the prosecutor,</p> <p>5 which was Robert Junk.</p> <p>6 Q. And do you know what involvement, if any,</p> <p>7 the sheriff had in that process?</p> <p>8 A. No, sir. I do not.</p> <p>9 Q. You do not?</p> <p>10 A. No, sir. I do not.</p> <p>11 Q. Did you ever have any direct discussions</p> <p>12 with the sheriff concerning the duties that you were</p> <p>13 assigned on that day?</p> <p>14 A. No. There was nothing to discuss. I was</p> <p>15 asked to perform those duties and I did.</p> <p>16 Q. Okay. So what exactly did you do?</p> <p>17 A. I did exactly what I was asked to do.</p> <p>18 Q. Which was?</p> <p>19 A. I worked security at the front desk -- at</p> <p>20 the front door.</p> <p>21 Q. Correct.</p> <p>22 A. And I also followed the instruction from</p> <p>23 the prosecutor and his investigator. And I seized</p> <p>24 Mr. Myers's cell phone. I served him with an</p>
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<p>1 inventory list. And I also wrote on that inventory</p> <p>2 list that we had taken his cell phone from him,</p> <p>3 because I wanted him to have some kind of receipt.</p> <p>4 Q. Let me show you what's been previously</p> <p>5 marked as Exhibit 12.</p> <p>6 MR. ROBINSON: All right. Good to go,</p> <p>7 Marc.</p> <p>8 MR. MEZIBOV: Thank you.</p> <p>9 By Mr. Mezibov:</p> <p>10 Q. All right. Captain, do you have</p> <p>11 Exhibit 12 in front of you?</p> <p>12 A. Yes. I do.</p> <p>13 Q. Does that say it's an affidavit for</p> <p>14 search warrant?</p> <p>15 A. Yes, sir. It does.</p> <p>16 Q. And on the third page appears to be a</p> <p>17 signature of the applicant/affiant. Do you see that?</p> <p>18 A. Yes. I do.</p> <p>19 Q. And who's signature is that?</p> <p>20 A. I can't, one hundred percent, say for</p> <p>21 sure. But it does look like it is an Alan Wheeler.</p> <p>22 Q. All right. And have you seen this</p> <p>23 document before?</p> <p>24 A. No, sir. Not until today.</p>	<p>1 Q. All right. Did you see any affidavit for</p> <p>2 search warrant when you were assigned the duties --</p> <p>3 A. At the courthouse door?</p> <p>4 Q. Yes.</p> <p>5 A. As security? No, sir. I did not.</p> <p>6 Q. Were you armed with a search warrant when</p> <p>7 you seized the cell phone of Mr. Myers?</p> <p>8 A. No. I was not. I don't need a search</p> <p>9 warrant to seize a cell phone. I need a search</p> <p>10 warrant to get into the cell phone. So when I</p> <p>11 followed the instruction from the prosecutor and his</p> <p>12 investigator, I knew I wasn't breaking any laws.</p> <p>13 Q. Okay. Let me ask you to look at</p> <p>14 Exhibit 13, please.</p> <p>15 MS. SARK: It's attached to the back.</p> <p>16 MR. ROBINSON: Confusing.</p> <p>17 MS. SARK: Or, no, sorry. That was what</p> <p>18 I --</p> <p>19 By Mr. Mezibov:</p> <p>20 Q. Do you have Exhibit 13 in front of you?</p> <p>21 A. Yes, sir. I do.</p> <p>22 Q. Is that what's called a search warrant?</p> <p>23 A. That's what it appears to be, yes, sir.</p> <p>24 Q. And is that the search warrant that if</p>

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<p style="text-align: right;">Page 14</p> <p>1 you look on the second page is dated November 2nd,</p> <p>2 2022?</p> <p>3 A. Okay. The date of what I'm looking at</p> <p>4 here looks like it is 11/2 of '22.</p> <p>5 Q. Correct. And there's a judge's signature</p> <p>6 there?</p> <p>7 A. There is a signature there. I wasn't</p> <p>8 present.</p> <p>9 Q. I can't read it either. Do you know who</p> <p>10 it is?</p> <p>11 A. To be honest with you, no, sir. I can't</p> <p>12 tell you whose signature that is.</p> <p>13 Q. So tell me about your interaction with</p> <p>14 Mr. Myers on that day.</p> <p>15 A. He came in, was being processed through</p> <p>16 security. He set his cell phone down. I told him</p> <p>17 that I was instructed to confiscate his cell phone,</p> <p>18 and I took it and told him I had another paper for</p> <p>19 him. I do believe he was a little perturbed. I'm</p> <p>20 not going to say upset but perturbed.</p> <p>21 He turned around and walked outside. He</p> <p>22 had another gentleman with him of a heavysset build.</p> <p>23 And I remember I turned around behind me. I got the</p> <p>24 inventory list. And I remember jotting down --</p>	<p style="text-align: right;">Page 15</p> <p>1 putting on that inventory list that -- his cell phone</p> <p>2 on it. Because I wanted him to have some type of</p> <p>3 receipt. And I --</p> <p>4 Q. Did you ever exhibit or show to Mr. Myers</p> <p>5 any document signed by the judge?</p> <p>6 A. No. Why would I? I didn't need a search</p> <p>7 warrant to take and confiscate his phone.</p> <p>8 Q. Okay. Why did you not need a search</p> <p>9 warrant to confiscate his phone?</p> <p>10 A. Because I don't need a search warrant to</p> <p>11 confiscate somebody's cell phone. I need a search</p> <p>12 warrant to get in their cell phone.</p> <p>13 Q. All right. I heard your testimony. And</p> <p>14 I'm not quibbling with you.</p> <p>15 But I just want to understand. Is it the</p> <p>16 policy of the sheriff's department to seize an</p> <p>17 individual's cell phone without benefit of a search</p> <p>18 warrant issued by a judge?</p> <p>19 MS. SARK: Objection.</p> <p>20 You can answer.</p> <p>21 A. Sir, legally we can do it. And we do do</p> <p>22 that. And afterward we obtain a search warrant later</p> <p>23 for its processing at BCI&amp;I. Now until the Supreme</p> <p>24 Court changes that, that is what I follow.</p>
<p style="text-align: right;">Page 16</p> <p>1 Q. All right. Did you have any other</p> <p>2 involvement in this Rhoden matter or in the Derek</p> <p>3 Myers's matter that we're discussing?</p> <p>4 A. No, sir. I hadn't. No. I did not.</p> <p>5 Q. Why don't we take a moment and --</p> <p>6 MR. MEZIBOV: Emmett, can we talk?</p> <p>7 MR. ROBINSON: Sure.</p> <p>8 (Recess taken.)</p> <p>9 MR. MEZIBOV: All right. Well, I told</p> <p>10 you this would be quick and dirty. I'm done. Sorry,</p> <p>11 Captain. I know you were looking forward --</p> <p>12 THE WITNESS: Actually, sir, there's</p> <p>13 nothing to apologize for. I've had one hour of sleep</p> <p>14 in the past 24 hours, and I'm currently in the middle</p> <p>15 of a rape case. This is why I'm dressed the way I am</p> <p>16 today.</p> <p>17 MR. MEZIBOV: Well, I appreciate your</p> <p>18 time.</p> <p>19 THE WITNESS: I got to go do some -- I</p> <p>20 got to go catch a rapist.</p> <p>21 MR. MEZIBOV: I'm done. Go get the</p> <p>22 rapist and we're done.</p> <p>23 THE WITNESS: So if I felt short with</p> <p>24 you, I want to apologize. No disrespect, sir.</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. MEZIBOV: No. No. You're fine.</p> <p>2 Okay. We'll get a copy of this.</p> <p>3 MS. SARK: We'll get a copy as well.</p> <p>4 STENOGRAPHER: And will there be</p> <p>5 signature reserved?</p> <p>6 MS. SARK: So you can read the</p> <p>7 deposition. You can't change any of the deposition</p> <p>8 testimony, but if you believe something was taken</p> <p>9 down incorrectly, you can note it at the end. Or we</p> <p>10 can just waive your signature, which means you don't</p> <p>11 want to read it. I'm going to recommend we waive if</p> <p>12 you're fine with that.</p> <p>13 THE WITNESS: I'm totally fine with</p> <p>14 everything that transpired.</p> <p>15 MS. SARK: All right. We'll waive.</p> <p>16 Thank you.</p> <p>17 - - -</p> <p>18 Thereupon, at 12:08 p.m., Thursday,</p> <p>19 August 29th, 2024, the deposition was completed.</p> <p>20 - - -</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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1 CERTIFICATE

STATE OF OHIO :

2 : SS:

COUNTY OF JACKSON :

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4 I, Kathryn R. Thorne, Shorthand Reporter and  
5 Notary Public in and for the State of Ohio duly  
6 commissioned and qualified, do hereby certify that  
7 the transcript of James Burchett was taken by me and  
8 before me at the time and place for the purpose  
9 specified in the caption hereof.

10 I FURTHER CERTIFY that the foregoing  
11 transcript of said testimony is a true and correct  
12 transcript of the testimony given by the said witness  
13 at the time and place specified herein.

14 I FURTHER CERTIFY that I am not a relative or  
15 employee or attorney or counsel of any of the  
16 parties, or financially interested directly or  
17 indirectly in this action.

18 Given under my hand this 9th day of September,  
19 2024

20 My Commission expires June 26, 2027

21

*Kathryn Thorne*

22

Kathryn Thorne

23

Court Reporter

24

Notary Public-State of Ohio